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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/630,345	07/29/2003	Joseph A. Zupanick	17601-043001	9309
26231 7590 04/16/2008 FISH & RICHARDSON P.C. P.O. BOX 1022 MINNEAPOLIS, MN 55440-1022				
			EXAMINER KRECK, JOHN J	
			ART UNIT 3672	PAPER NUMBER
			MAIL DATE 04/16/2008	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.



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Minneapolis, MN 55440-1022

APR 16 2008

TECHNOLOGY CENTER 3600

*In re* Application of ZUPANICK, JOSEPH A.

Appl. No.: 10/630,345

Filed: July 29, 2003

For: METHOD AND SYSTEM FOR ACCESSING  
SUBTERRANEAN DEPOSITS FROM THE SURFACE  
AND TOOLS THEREFOR

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:  
: **RESPONSE TO PETITION**  
: **UNDER 37 CFR 1.59**  
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This is a response to the petition under 37 CFR 1.59(b), filed January 18, 2008 to expunge information from the above identified application.

The decision on the petition will be held in abeyance until allowance of the application or mailing of an *Ex parte Quayle* action or a Notice of Abandonment, at which time the petition will be decided.

Petitioner requests that court documents from the *CNX Gas Corporation vs. CDX Gas, LLC*, Civil Action No. 05-1574 filed January 18, 2008, be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR 1.17(g) has been paid.

The decision on the petition is held in abeyance because prosecution on the merits is not closed. Accordingly, it is not appropriate to make a final determination of whether or not the material requested to be expunged is "material," with "materiality" being defined as any information which the examiner considers as being important to a determination of patentability of the claims. Thus, the decision on the petition to expunge must be held in abeyance at this time.

During prosecution on the merits, the examiner will determine whether or not the identified document is considered to be "material." If the information is not considered by the examiner to be material, the information will be removed from the official file.



Donald T. Hajec, Director  
Patent Technology Center 3600  
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DH/db: 4/8/08

*TL*